

Serial No. 10/583,485
Response dated February 23, 2009
Response to Final Office Action of October 22, 2008

REMARKS

Applicant has carefully reviewed and considered the Final Office action. In response, applicant hereby submits the following remarks together with a Request for Continued Examination.

The Examiner has rejected claims 1-4, 6, 7, 10, 12, 14, 18 and 20 under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 844,288 to Purdy in view of U.S. Patent No. 538,895 to Casgrain. The propriety of any rejection based upon 35 U.S.C. §103 rests upon whether “the differences between the subject matter sought to be patented and the prior art are such that the subject matter *as a whole* would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.”¹ The Manual of Patent Examining Procedure § 2143.03 aptly states that “[t]o establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art,” and that “all words in a claim must be considered in judging the patentability of that claim against the prior art.” (citations omitted). “[T]he mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.”² In other words, to reject a claim as *prima facie* obvious based on features disclosed in the art, there must be some suggestion of the desirability of making the combination, and that suggestion must come from the prior art. Section 2143.01 MPEP, ch. 2100, p. 137 (“The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the

¹ *Graham v. John Deere Co.*, 383 U.S. 1, 13; 48 USPQ 459, 465 (1966).

² *In re Laskowski*, 871 F.2d 115, 116, 10 USPQ2d 1397, 1398 (Fed. Cir. 1989) (citing *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984)) (emphasis added).

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combination.”) (Emphasis in original). The Examiner cannot substitute unsupported assertions for this suggestion or motivation.

In this regard, it is clear that contrary to the Examiner’s assertion (pages 2-3 of the Action) neither Purdy nor Casgrain disclose a “connector device including a power transmission member and a coupling operatively connecting the end portions of the cable to the power transmission member, the power transmission member being a generally tubular member having end sections receivable within the recesses in the wheel . . . the coupling including a coupling element operatively connected to the power transmission member between the end sections” (emphasis added) as set forth in the present application in independent claim 1.

Lacking these features, it cannot be said that all of the present claim limitations are taught in or suggested by the prior art, and the rejection should fall. Neither reference teaches a power transmission member having end sections receivable within the recesses in the wheel and a coupling element operatively connected thereto between the end sections. In Purdy, the rod or rung (R) serves as a power transmission member according to the Examiner. This rod, however, does not have “end sections” and certainly not end sections receivable within wheel recesses since this reference fails to teach or suggest a wheel having recesses. Similarly, the cylindrical bar (b) which serves as a power transmission member in Casgrain according to the Examiner does not have “end sections.”

Nor does Casgrain teach a coupling element operatively connected to a power transmission member between such “end sections.” Even if the Examiner were to argue that the cylindrical bar did have end sections, the coupling element would be operatively connected to those end sections, as opposed to being connected to the transmission

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member between the end sections as required by the language of claim 1. Since all claim limitations must be taught or suggested by the prior art and all words in a claim must be considered in judging the patentability of that claim against the prior art to establish *prima facie* obviousness, this claim should be allowed for each of the foregoing reasons.

As discussed in detail below, a skilled artisan would simply not be motivated by anything taught or suggested in Purdy of the desirability of combining the invention in Purdy with a recessed wheel shown in Casgrain. Absent that suggestion within Purdy since it must come from the prior art, the mere fact that the prior art could be so modified would does not make the modification obvious. Purdy merely contemplated use with a wheel having sprockets which engaged a rung (R) adjacent a clevis (b). There was no concern expressed regarding the desirability of having any portion of the cable assembly recessed or the like. The fact that the cable assembly in Purdy is utilized with a sprocket wheel simply cannot be used to supplant the requisite suggestion or motivation provided by the art to support the *prima facie* case of obviousness. For at least this additional reason, the rejection of claim 1 is unfounded.

With regard to claim 2, the references further provide no teaching or motivation to provide the structural limitations set forth therein. Specifically, there is no teaching in either reference of a wheel having grooves formed in an outer periphery surface and a plurality of cables being associated with a respective groove and cavity. To the contrary, the ribbon cable utilized in Casgrain would necessarily ride along an outer periphery of a wheel and Purdy simply does not teach or suggest such a groove for cables or otherwise, or a desire or need therefor. Lacking these features, it cannot be said that all of the present claim limitations are taught in or suggested by the prior art, and the rejection of claim 2 should be withdrawn and the claim allowed.

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Even more, claim 5 requires the end sections of the power transmission member to include rotatable bushings. Again, neither reference teaches a power transmission member with “end sections” much less end sections including “rotatable bushings.” Rather, each reference teaches merely a cylindrical bar or rod. Absent a teaching of this specific claim limitation, *prima facie* obviousness of the claimed invention is not taught or suggested by the prior art. Accordingly, the rejection of claim 5 should be withdrawn and the claim allowed.

Likewise, claim 10 requires the coupling element to include a plate mounted to the power transmission member for at least partial rotation relative thereto, said plate including one or more tongue portions . . . operatively connected to a clevis. Again, neither reference teaches a plate including one or ore tongue portions connected to a clevis and/or mounted to the power transmission member for at least partial rotation relative thereto. Again, each reference teaches merely a cylindrical bar or rod. The clevises in Purdy slip directly onto the rung (R) and thus there is no plate therebetween much less a plate mounted to the rung for at least partial rotation relative thereto. Absent a teaching of these specific claim limitations, *prima facie* obviousness of the claimed invention is not taught or suggested by the prior art. Accordingly, the rejection of claim 10 should be withdrawn and the claim allowed.

Summarizing, neither Purdy nor Casgrain, either alone or in combination, provide the suggestion or motivation for the structure set forth in independent claim1 or in dependent claims 2, 5 or 10. The rejection of these claims should be withdrawn. The claims depending respectively from these claims are therefore also in condition for allowance under the teachings of *In re Fine*,³ and should similarly be allowed.

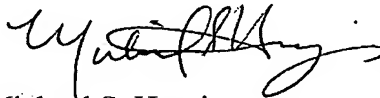
³ *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)(“Dependent claims are non-obvious under 35 U.S.C. 103 if the claims from which they depend are non-obvious.”).

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For at least the foregoing reasons, the Applicant submits that all claims are in a condition for allowance and requests a timely Notice of Allowance to be issued for same. *To the extent any fees are due beyond those expressly authorized in the accompanying transmittal forms for the Request for Continued Examination (and extra claims fees) and petition for one (1) month extension of time to respond to the pending Office Action, the undersigned authorizes their deduction from Deposit Account No. 11-0978.*

Respectfully submitted,

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